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DIGEST OF WATER POLLUTION CONTROL LEGISLATION: VERMONT

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF VERMONT WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The State Water Conservation Board has the primary responsibility of controlling water pollution. (Ch. 277, Secs. 6304-6311) 1/.

The State Health Commission also exercises some functions relating to water pollution. These functions relate primarily to public water and ice supplies and disposal of drainage or sewage (Laws of Vermont, 1951, No. 170, Secs. 197-210).

The 1957 Legislature passed an Act establishing a fund of $1,000,000 (by a State bond issue), which is to be used to make grants to municipalities of 20% of the cost of the construction (exclusive of amounts derived from private sources) of sewage treatment facilities. The responsibility for the administration of this Act is vested in the Water Conservation Board. (Laws of Vermont, 1957, No. 293).

For the purpose of classifying its waters, the State has adopted the following classes and definitions thereof:

Class A. Suitable for public water supply. Character uniformly excellent.

Class B. Suitable for bathing and recreation, irrigation and agriculture uses; good fish habitat; good aesthetic value; acceptable for public water supply with filtration and disinfection.

Class C. Suitable for recreational boating, irrigation of crops not used for consumption without cooking; habitat for wildlife and for common food and game fishes indigenous to the region.

1/ Citations in this digest refer to Vermont Statutes (Revision of 1947) unless otherwise indicated.

Class D. Suitable for transportation of sewage and industrial wastes without nuisance, and for power, navigation and other industrial uses (Laws of Vermont, 1949, No. 148, sec. 4).

Legislative act placed the waters of all reservoirs, natural or artificial, wholly within the State, used for public water supply, and all waters flowing into such reservoirs, as Class A waters of Vermont, and also placed the waters of each natural lake and pond, wholly within the State and having an area of twenty or more acres, and the waters flowing into such lakes and ponds, in a Class B category (Laws of Vermont, 1949, No. 148, sec. 5).

II. ADMINISTRATIVE ORGANIZATION

State Water Conservation Board

1. Composition

The Board consists of three members appointed biennially in the month of February by the Governor, for 6-year terms. The Board, with the approval of the Governor, appoints a Commissioner of Water Resources, who acts as the Executive Secretary of the Board (Secs. 6301, 6302).

2. Powers and duties

a) Classification of waters; setting water purity standards

The Board is authorized to classify waters not already classified by the Legislature, and to determine the degree of purity that should be obtained and maintained in such waters in the future. The Board may hold public hearings before making its classifications, and give public notice thereof. Before announcing its proposed classifications it gives notice to the area residents and on objection

reconsiders its proposed classification and may reclassify any part or all of a river or stream on a sufficient showing that its proposed classifications are contrary to the public interest. Persons aggrieved by the classification may take an appeal to the Chancery Court; provided that such an appeal may not be taken after 30 days from the date of publication of notice by the Board of the classification of such waters (Laws of Vermont, 1949, No. 148, secs. 5-III, 6, 7, 9, 10).

b) Approval of plans

No municipality, after June 1, 1949, may extend its sewer system until it has filed a copy of its plan for such extension with the Board and has received approval thereof (Laws of Vermont, 1949, No. 148, sec. 13).

Each eligible municipality making application for State aid for the construction of sewage treatment plants must submit a copy of the plans for such project to the Board. The Board must find the facilities to be necessary and the proposed type, kind, quality, size and estimated costs thereof to be suitable for the purpose. The facilities must meet all other lawfully established standards and other requirements of the Board (Laws of Vermont, 1957, No. 293, sec. 3).

c) Enforcement

When some one is alleged to be causing pollution of State waters, the Board may cite him to appear before it, not less than 30 days from the date of service of the citation, and require him to show cause why the Board should not issue an order to restrain

such pollution. Such citation may be issued by the Board or a member thereof, and may be served and returned in the same manner as process in any civil action, or by registered mail (Sec. 6306).

If, on the hearing, the Board finds that the person is polluting the State waters, it may order such person to use some practicable and reasonably available means which will reduce or eliminate such pollution, provided the cost of the installation, maintenance and operation thereof is not unreasonable or inequitable. Such order of the Board may specify the particular means to be used. If there is more than one, the order of the Board must give the person the right to choose which is to be used. The order must specify a reasonable time within which operation thereof is to commence and such time may be extended by the Board upon application by the person against whom the order was issued. Upon application, the Board may modify its order consistent with the provisions of the Act (Laws of Vermont, 1949, No. 148, sec. 15, to be added to the Revised Statutes as sec. 6307).

Anyone desiring to make a substantial change in any means ordered to be used, must, before making such change, file with the Board a plan describing the change, and thereafter proceed in accordance with such plan unless the Board notifies him within 10 days of receipt thereof of its objections to such change. An order of the Board may, at any time after at least 20 days' notice in writing to any person affected thereby, and after a hearing thereon, be modified or revoked. The Board must forthwith cause an attested

copy of each order passed by it to be served upon the person affected thereby in the same manner as writs of summons in civil actions may be served (Sec. 6308).

The Board's orders respecting pollution are enforced by equity proceedings brought in the Chancery Court of the county wherein such pollution originated. The suit is brought by the Attorney General for an injunction (Sec. 6309).

An aggrieved party may appeal an order of the Board to the Chancery Court within 30 days after issuance. The Court hears the case and renders a decree. The cause may be transferred to the Supreme Court as provided by law (Sec. 6310).

Anyone violating any of the provisions of the Act, or who fails to obey any order of the Board, is subject to a fine of not more than $50.00 for each day of such violation or failure after the expiration of any time limit set by the Board, provided, that the total fine is not to exceed $1000.00 (Laws of Vermont, 1949, No. 148, sec. 16).

No one is permitted to establish or maintain any source of pollution not existing on or before June 1, 1949, or increase waste discharges from any source of pollution existing on or before such date, except by petition to the Board and upon receipt from the Board of written authorization to do so; provided, that after the classification of any waters of the State has been established, the Board may take action against any person who permits waste of such kind or quantity to enter State waters which, by itself or in

combination with wastes from other sources, reduces the waters below the classification set for them. The provisions of the Act, however, are not to be construed to affect the fertilization of fields or crops (Laws of Vermont, 1951, No. 131, to be added to the Revised Statutes as sec. 6305).

d) Conduct of studies, investigations, and research

The Board makes an investigation of the circumstances when it receives a petition to establish or increase any source of pollution of State waters. It may deny or grant the petition with or without modification, (Laws of Vermont, 1949, No. 148, sec. 14).

The Water Conservation Board may make available to any municipality in the State such assistance as may be requested of it in matters relating to surveys, studies and plans for pollution abatement works (Laws of Vermont, 1957, No. 185, sec. 1).

e) Cooperation with other public and private agencies

When money is made available to the Board under the Federal Act for engineering and other studies and surveys, the Board may use such money, except that which is ear-marked for surveys and research of pollution by industrial wastes, to assist municipalities in surveys and planning pollution abatement works (Laws of Vermont, 1949, No. 148, sec. 13).

The Board is authorized to cooperate with the State Board of Health in matters of stream pollution where public health is involved, and make studies and investigations of the other problems arising from stream pollution and propose remedies therefor to the Legislature (Sec. 6303-V).

In all matters relating to interstate streams, the Board may cooperate with the duly constituted agencies of the Federal government, the Province of Quebec, adjoining States, and States through which water from Vermont streams flow, and with the Federal government on all matters relating to grants-in-aid to municipalities for construction or operation of sewage treatment facilities (Laws of Vermont, 1949, No. 147, sec. 1, to be added to Revised Statutes as sec. 6303-IV).

f) Administrative powers

The Board is authorized to hold hearings, issue citations, orders and subpoenas, administer oaths and order the attendance of witnesses and the production of testimony (Sec. 6306 as amended by Laws of Vermont, 1949, No. 148, sec. 15).

3. Exemptions from operation of Act

Nothing contained in the Act is to be construed to affect the powers and duties of the Department of Public Health or of local health boards (Sec. 6311).

4. Statement of policy

It is the declared policy of the State that its water resources are to be protected, regulated, and, where necessary, controlled under authority of the State in the public interest and to promote the general welfare (Sec. 6299).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to corrupt or commit a nuisance in any stream, watercourse or reservoir used by a municipality as a water supply. Violation is punishable by a fine or imprisonment (Sec. 3837).

No one is permitted to take fish by the use of explosives. Violation carries a fine or imprisonment (Sec. 6402).

Anyone who places in any waters lime, creosote, coculus indicus or other drug or poison destructive to fish is subject to a fine (Sec. 6403).

It is unlawful for anyone to pollute the waters used as a source of domestic water supply. Violation carries a fine or imprisonment (Secs. 7473, 7474).

While the United States is at war or threatened with war, it is unlawful for anyone to pollute or place any poisonous substance in any water liable to be used by a person or domestic animal. Violation of this section subjects the offender to a prison term of up to 20 years (Sec. 8232-II).

Anyone who with intent to kill another person, wilfully poisons a spring, well or reservoir of water is subject to imprisonment up to 20 years (Sec. 8246).

It is unlawful to deposit or cause to be deposited slabs or edgings into any stream (Sec. 8439). No sawdust, shavings, bark or refuse may be deposited in the waters of any stream by any owner or agent of a mill erected, constructed or set up after August 1, 1913 (Sec. 8440). The waters of certain specified rivers or streams are fully protected against the deposits of sawdust, shavings or mill refuse (Secs. 8437, 8438).

It is unlawful for anyone to discharge sewage or other polluted matter into the waters of a pond or lake having an area of 1000 acres or more lying wholly within the State. Violation carries a fine (Sec. 8497).

It is unlawful for anyone to deposit sewage or other polluted matter in the following bodies of water or tributaries thereof or upon the shores thereof, within 30 feet of the high water mark. Violation carries a fine and/or imprisonment:

Lake Eden in the Town of Eden;
Echo Lake in the Town of Charleston;
Lake Elmore in the Town of Elmore;
Lake St. Catherine in the Towns of Poultney and Wells;
Metcalf Pond in the Town of Fletcher;
Ryder Brook in the Town of Morristown, above the dam;
Lake Groton in the Town of Groton;
Lake Dunmore in the Towns of Salisbury and Leicester;
Lake Eligo in the Towns of Greensboro and Craftsbury;
Lake Howe in the Town of Readsboro;
Lake Hortonia in the Towns of Sudbury and Hubbardton;
Seymour Lake in the Town of Morgan (Sec. 8498 as amended by Laws of Vermont, 1949, No. 199).

It is unlawful for anyone to put a dead animal or animal substance into or upon the bank of a lake, pond, running stream or spring of water so that it is washed into the same and permitted to remain therein for a period of 48 hours. Violation carries a fine (Sec. 8499).

IV. INTERSTATE COMPACTS

The Governor is authorized to enter into the New England Interstate Water Pollution Control Compact (Laws of Vermont, 1949, No. 148, secs. 1-3).

On June 29, 1951, the Governor of Vermont executed the New England Interstate Water Pollution Control Compact and appointed five commissioners to represent the State, thereby making Vermont an active member of the Compact (Executive action under Laws of Vermont, 1951, No. 132).